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International Court of Justice

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Take 4, Page 1
5 July 1530-1700
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OFFICIAL TRANSCRIPT OF TESTIMONY FOR THE DEFENSE OF ORGANIZATIONS, TAKEN BEFORE A COMMISSION APPOINTED BY THE INTERNATIONAL MILITARY TRIBUNAL PURSUANT TO PARAGRAPH 4 OF THE ORDER OF THE TRIBUNAL DATED 13 MARCH 1946.

5 JULY 1946

COMMISSIONER:

MARTIN-HARVARD ARMAND

THE GESTAPO

(The Commission convened at 1545 hours.)

BY THE COMMISSIONER:

The testimony will be taken orally, however the witness may have some notes with him. But, however, he can't use the answers prepared before hand. If he uses notes to help him, those notes can be seen by the prosecution. What is his name?

BY THE WITNESS:

Dr. Werner Best.

BY THE COMMISSIONER:

Will you repeat the oath?

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

BY THE COMMISSIONER: You may sit down.

BY DR. JOSEPH WEISGERBER (Defense Counsel for The Gestapo)

The witness, Dr. Best is to be heard on the following 2 things:

a. Development structural work of the Gestapo, the possible consideration of that book published by the witness, called, "The German Police". Paragraph 6a. No. 1. Trial brief 13 March 1946.

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b. Voluntary membership. 6a No. 2, Trial Brief, 30 March 1936.

c. Aims and activities of the Gestapo, (among others the International Corporation) in connection with the crimes with which the Gestapo is charged. 6a, No. 3, Trial Brief 30 March 1936.

COMMISSIONER: Will you take it over to the Prosecution because it is rather long? We will begin.

DIRECT EXAMINATION

BY DR. WEISGERBER:

Q. Witness, will you give us a brief personal history?

A. Since I am an attorney and a professional civil servant since 1929, I was a judge in the Hessian judicial structure. Since 1933 I was an administrative official and since 1942 I have been a diplomat. In 1933 and 1934 I was Regierungstrat in the Hessian Ministry of the Interior and the Chief of the Police Department of this Ministry. From 1935 - 1936 I was a Prussian Chancellor Governor or Oberregierungsrat in the Gestapo Office in Berlin and from 1936 to 1940 I was a Ministerialrat xxxxxxxxxxxxxxxxxx and later Ministerialderigent in the Reichsministry of the Interior, jurisdiction of the Security Police. From 1940 to 1942 I was a Military Official. From 1942 to 1945 I was a Reich Potentiary in Denmark.

Q. Will you also give us a very brief history of your political development?

A. Originally my attitude was rational and conservative. I was a member of the German National Party. The worry about the progressive unemployment situation as determined in the fall of 1930 caused me to join the Nazi Party. In November 1931 I was elected Deputy into the Hessian Landtag. On that occasion I was asked to don the SS uniform and I joined the SS. I have never joined any SS Service but I was promoted correspondingly to my rank as a civil servant. From

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1931 to 1933 I was a Kreisleiter of the Party in Mainz. I have not had another Party office since the year 1933.

Q. Thus you have had a position in the Security Police and consequently you have a thorough knowledge of the interior happenings which is shown again by your publication of the book, "The German Police". What was the reason for the organization of a political police? Before 1933 we already had the political department of the individual police headquarters. Why could these offices not remain employed in attending to the State Police tasks which they fulfilled up to that point?

A. In March 1933 no coordinated decrees were issued to insure the unified handling of police authority in the different provinces. Yet, all over the same forms of new police activities eminated. I believe that the same reasons were important every where which prevailed in my district in Hessian. I, at that time, originated a State Police Association for the Political Police and a Provincial Police leader for the uniform police, because the police frequently, before 1933, was employed against the National Socialists, and that caused the fear that they would not have enough authority toward the National Socialists. ~~This~~ These new institutions now were declared to be institutions of the National Socialists State and that is why they had authority also where National Socialists were concerned. Thus the old professionals were able to be employed by us, for instance, the head of my State Police Office in Danstat was a Government Chancellor who used to be a member of the party who was a free Mason and my Landespolizeifuhrer was a Lieutenant Colonel who used to be a member of the Regierungsrat. I believe that these people were proper people for their position. We were, in fact, able to retain these in order

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that there was no loss of life ~~in the~~ or material goods. xxxx It was in Hessian like that and I think it was like that every where.

Q. The Prosecution refers at various times to the book called, "The German Police". That is why I wish to give you an opportunity to comment on the following questions: Is this book an official publication?

A. No. It is purely a private publication. This is shown in the preface and can be derived from the fact that my superior Himmler only heard of the book when I submitted one copy to him.

Q. On the basis of what law did you consider xxxxxxxxxxxxxxx the ~~Prosecution~~ persecution of political enemies as ~~pursued~~ pursued by National Socialists just?

A. The police law of the National Socialists said, it can only be explained on the basis of the sound conception of National Socialism, the same way in Soviet institutions can only be explained on the basis of the Soviet conception of the State.

M. Marbin Harrod

~~COMMANDER~~ HARRIS: I am going to ~~instruct~~ request the ~~prosecution~~ defense to instruct the witness to confine his testimony to the issues that are involved here. So much of what he is saying is completely irrelevant that we are losing valuable time, particularly remarks such as, "The state of law in the Soviet Union or other countries", is immaterial.

DR. WEISGERBER: I would like to explain that the Prosecution has referred frequently to this book. Consequently, the Defense ought to be permitted to ask at least a few questions pertaining to this matter. How and into what connection, the question asked by the Prosecution are of importance? I beg this to be left to the Defense whether the prosecution, despite their excellent knowledge of the situation is in a position to survey the connections entirely? xxxxxxxxxxx

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COMMANDER HARRIS: My objection is not to the question but to the answer.

DR. WEISGERBER: All right.

Mr Martin-Harvard

COMMANDER HARRIS: Only the questions that interest the court directly. I Remind the Counsel of these questions. The witness must limit himself to answering to the questions that interest the court directly. I don't want to remind him every now and again. I ask the Counsel if he can stop the witness himself, when he goes too far.

BY DR. WEISGERBER:

Q. You are not finished with your answer. Will you please limit yourself to the most necessary remarks?

A. The National Socialist conception of the State was authoritarian. This could be derived from the positive right to the law of 24 March 1934 for transferring the authority to issue laws to the Reichsgovernment. And it could be also derived from the development of the Reich State Law that in ever increasing measure the decrees and directives issued by the Fuehrer and Reich Chancellor were recognized as law. The police measures in new legal basis, had been created by the decree of the Reich President, dated 28 February 1933. This decree and the directives issued to the police by the Fuhrer and Reich Chancellor and the authority deputized by him, formed the police law of the National Socialists State.

Q. Is it true that the measures of the Gestapo did not come within the purview of the ordinary or the administrative courts?

A. The ordinary courts were able to check the measures of the Gestapo in any civil or penal procedure, in particular, in charges against officials of the Gestapo. Organizational charges within the Security police were the reason why measures of the Gestapo were no longer permitted to be checked by the administrative courts, since the Gestapo was made subordinate to the Ministry

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President and consequently taken out of the Interior Administration. The Administrative Courts themselves took the attitude that they were no longer competent for such a check. This attitude was never reflected into Prussian Law.

Q. Was there any legal procedure which one could appeal against, for instance, protective custody orders?

A. There was the appeal to the authority which was superior to the authority of protective measures and anyone had the right of complaint to either the Fuehrer and Reich Chancellor or to any Minister President of Prussia or any other German province. In the years before the war, the Gestapo had worked out an interior plan according to which special protective custody examination commissions were to be created. The war stopped the execution of this plan.

Q. The Prosecution charges that the Gestapo was not tied down to any laws. The first of this collection to the second decree pertaining to the law #4 of the Union of Austria with the German Reich was dated 18 March 1938. It refers to the following passage in Paragraph 1, 1 ? 437 PS. Paragraph 1 reads as follows: "Reichsfuhrer SS and Chief of the German Police and the Reichsminister of the Interior may create the necessary measures for the preservation of security and order even outside of the jurisdiction determined herein."

A. This decree contains an authority to create police leader standards which deviated from laws or decrees which had existed heretofore. The police, in individual cases, never acted arbitrarily but always on the basis of some general decrees which we found either in an order or by decree or by directives.

COLONEL ORLOV: It is too detailed.

DR. WEISGERBER: Since the Prosecution has pointed out particularly ~~these~~

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these places in the book which the author has published, I believe that these questions are important and pertinent. Please permit the witness to continue.

COMMISSIONER: It is in the interest of everyone to go as fast as you possibly can. The witness must be questioned in the usual way.

DR. WEISGERBER: I am attempting to abide by this directive.

BY THE WITNESS:

A. In individual cases there was no question of arbitrary action but special orders and directives to cover these things have been promulgated

COMMANDER HARRIS

DR. WEISGERBER: The Prosecution, in Document 1852-PS, has pointed towards the following paragraph: "It is no longer a question of law but a question of fate whether the will of the leadership lays down the 'right' rule, i.e., rules feasible and necessary for police action--the 'police' law which is suitable and are beneficial to the people. Actual misuse of the legislative power being a people's leadership and be it a harmful severity or weakness, will, because of the violations of the 'laws of life' be punished in history more surely by fate itself through misfortune, overthrow and ruin, than by a State Court of Justice".

BY DR. WEISGERBER:

Q. [redacted] Is the interpretation correct that police arbitrary action is the consequense of authoritarian state leadership?

A. There is no question of police arbitrarism because I have said several times that the will of the State leadership creates police law. I must again give an example to illustrate the thought of the book. The sentence means the same as if I say that the parliament of the United States makes harmful or good laws is not a legal question but a political question and this passage of my book was meant to be a political warning to the State leadership to use their authority only for

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good and for use for decrees and unfortunately I was proven to be right and I think that in a worthwhile literature that fate would speak.

Q. Is it true that you participated in the so-called Decree of Assimilation and for what reason?

A. I myself was the motivating power for this measure for the following reasons: After, within the police, the plan of expert civil servants was stabilized and the largest part of the old police officials had remained in the service, there was a danger that the police might take a certain opposite view to that of the political movement. At least people of the party would have said that these police officials who before, were members of the Socialistic Democratic or other parties, were not permitted to put into execution, measures against Party members. In such a case, the best solution for the problem in the National Socialistic States was a uniform. That is why I myself asked them to have the civil servants wear SS uniforms.

CO COLONEL ORLOV: Mr. Commissioner. We are losing time for nothing. We don't have to prove here that everything in the National Socialistic State had a legal basis, after the application of the "gas wagon", it is presumed that the basis was criminal.

DR. WEISGERBER: The prosecution states that the Gestapo members, to a great extent, were SS members.

COMMISSIONER: Is he asking a question of the witness?

DR. WEISGERBER: I must have an opportunity to ask a question to explain why a part of the Gestapo membership wore an SS uniform.

COMMISSIONER: He hasn't answered the objection raised by the Prosecution. You can carry on asking questions but I will ask the witness that he answers the questions without a long story, and without trying to find the legal side of the

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the action that was carried out.

BY THE WITNESS:

A. In the SS there was a very strong resistance to this assimilation. One cannot say that the SS wanted this measure. At the beginning of the war out of 20,000 possible men, about 3,000 were assimilated so that I cannot say that this had taken place in preparation of the war.

BY DR. WEISGERBER:

Q. The question of the voluntary membership in the ~~Anschluss~~ accused Organization plays an important part. You yourself for example, were the Chief of the Department of the Administration. I want you to tell us briefly your idea of whether membership in the Gestapo was voluntary or not?

A. The Gestapo was a Civil Service agency. Its employees were treated exactly as the employees of other agencies like a judge who might have been transferred to a penal court or to a real estate assessor or the way an administrative official would have to obey an order which took him either to a Landratamt or a police headquarters. The same way a detective had to obey an order which sent him to a Gestapo office or an administrative employee would have to obey an order transferring him to a Gestapo office.

Q. What were the consequences if he refuses to accept such a transfer to the Gestapo?

A. Disciplinary procedure for disobeying.

Q. Were there any more disadvantages for the individual concerned? For instance, supervision by the Sipo?

A. It was possible that such would have been the consequence if he would have made known any political motives.

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Q. In appointing the personnel of the Gestapo, were members of the SS or SA preferred?

A. Positions with the Gestapo, on the basis of the Police Law, were reserved 90% for candidates coming from the Schutzpolize. Only 10% of the law stated they could come from foreign professions.

Q. Were the salaries a special inducement?

A. No, not at all. Salaries were fixed by the general salary laws and just as low as they were for other officials for corresponding rank.

Q. Was it a matter of course that employees of the Gestapo were used in Party offices?

A. Officials were prohibited from accepting official functions in the Office of the Party of the SS or in other political organizations so that there could be no influence from this side on the civil servants in regard to their official activities.

Q. Can the functions which the employees of the Gestapo perform be categorized?

A. Yes. First you can separate administration and executive similar to finance and customs. The executive part again was divided into political executive, in the narrow sense the counter-intelligence police, border police, and Reich Security Service. That is about it.

Q. For what reason do you put the administrative officials in a special category?

A. The administrative officials did not have anything to do with the executive part. Their duties, for instance, included managing the offices dealing with personnel records, dealing with the budget, expenditures, procurement, accounting, as well as dealing with material rights. For instance, my office took care of the entire German passport law, the entire law pertaining to the policing of foreigners, border regulations on the basis of international pacts and agreements

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and similar objects of law.

Q. Did the administrative officials also come under the police law?

A. No. The law for police employees only concerned itself with the service relationship of all executive officials of the entire police, for instance, Schutzpolizei, Gendarmerie, criminal police and the Gestapo, where administrative officials were subject to the Reich civil servant law.

Q. At what point were the administrative officials in a position to learn of the measures and activities of the executive police officials?

A. The administrative officials had practically no possibility to become aware of it, since neither by records or by official consulant were they instructed of executive measures. The order of secrecy were against these people learning from the executive police in private conversation.

Q. As a part of the executive, you mentioned the counter-intelligence police. What were the special duties of the counter-intelligence police?

A. The criminalistic research in cases of state treason.

Q. Which police offices dealt with state treason cases before 1933?

A. In the individual German provinces they were so-called Central Police offices who again, with the other police offices, had specially assigned officials.

Q. After 1933 how far has that situation been changed?

A. Practically the same. The officials were taken over into the Gestapo and have conducted their work as under the designation of Section 3.

Q. What was your own position in relation to the counter-intelligence police?

A. In 1935 I was assigned as a commission leader of Section 3 of the Gestapo in the Center Office of the Gestapo to straighten out certain difficulties which arose with the Wehrmacht. The department itself did not constitute much work for me because it merely evaluated and informed the authorities.

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Q. What was the number of heads in the Counter-Intelligence Police?

A. I should judge about 2000 to 3000 heads but I don't want to make that a definite statement.

Q. What was the relationship between the Counter-Intelligence Police and the Military Counter-Intelligence?

A. Both institutions were independent of each other on the same level. The task of the Counter-Intelligence Police was to deal with individual cases. It was the task of the Military Counter-Intelligence to ascertain the apparatus of the enemy. Both institutions had to keep each other abreast of the developments.

Q. The persons who were suspected of state treason activities, were they thrown into concentration camps by way of protective custody without legal procedure?

A. On the basis of my own knowledge I can testify that up to 1940, every case of state treason was transferred to the courts and the courts passed sentence.

Q. Since when was there a border police?

A. Just as with the Counter-Intelligence Police, the original German provinces had police offices fulfilling where assigned officials took care of that particular assignment and duty. There was a great difference in the organizational group and consequently their efficiency was not very great. That is why in 1937, when the police was made into an organ of the Reich within the framework of the Gestapo, the so-called border police was organized in a coordinated manner and correspondingly training was introduced of border police.

COMMISSIONER: Witness, can you answer more briefly to the questions? The Counsel wanted you to be brief and you go into too much detail and are getting off the point of the question.

BY DR. WEISGERBER:

Q. Will you briefly describe the duties of the Border Police?

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A. The task consisted of checking passes and passports, control of small frontier border traffic, cooperation with foreign police forces, by accepting deportation persons, etc,, and search for persons and objects on the basis of the Search Register of the German Police.

Q. Was membership in the [redacted] Frontier Police or Border Police a voluntary one?

A. [redacted] any official of the Gestapo Kripo or administrative police [redacted] could be transferred to the Frontier Police as well as from any other Police.

Q. How large was the Frontier Police during your tour of duty with the Gestapo?

A. If my memory serves me right, at the beginning of the war about 3½ to 4,000 people.

Q. During war time, did the duties to be performed by the Frontier Police change?

A. As far as the Frontier Police remained on the front, nothing changed. I know about this personally up to the end of the war about the German Danish frontier.

Q. Did the Frontier Police have anything to do with third degree interrogations?

A. It was not the task of the Frontier Police to do any factual interrogations since it did not have any factual records. Their interrogations could only concern the identification of an individual. Of course, no third degree interrogations were ever applied here.

Q. What was the procedure of transfer with the Austrian Frontier Policemen after the so-called Anschluss in 1938?

A. The officials were taken over within grade and employed further at the frontier.

Q. What procedure was used by the Frontier Police to fulfill duties of a Security Police kind?

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A. In checking passes at the frontier, the Search Register was always checked to find out if the owner of the passport was searched for by any German Agency. The Check Register contained the "holding orders of German reports", the wanted descriptions and photographs of German persecutors, and the wanted orders of the German Criminal Police and of the Gestapo. If anyone's name appeared in the book he was arrested and the authority concerned was notified.

COMMISSIONER: If you will wait a few minutes I will telephone Colonel Neave to see if the commission will appear tomorrow. You will sit tomorrow morning. Will you give instructions for the witness to come back tomorrow morning at 10 o'clock?

BY DR. WEISGERBER:

The witness previously mentioned the Reich Security Service. Consequently I must concern myself briefly with this circle of persons. I could save myself these questions if the gentlemen of the Prosecution would let me know whether the Reichssicherheitsdient is considered part of the Gestapo or not. I myself can only say the following: The Reichssicherheitsdient never has been a part of the Gestapo and it must not be confused with the SD. But in my various camp visits I have found that the members of the Reichssicherheitsdient were treated as either members of the SD or of the Gestapo. If there is something unclear in respect to this point, I must take the opportunity to discuss this problem. If the gentlemen of the Prosecution can declare, however, that the Reichssicherheitsdient does not come under the Gestapo, I can save myself approximately 8 questions.

MR. MONNERAY: I think it is difficult for us to take a general precept, but since Reichssicherheitsdien has been quoted by the witness during the interrogation of the Gestapo, I think personally we will probably have to eventually cross-examine the witness on this point unless, during the following direct

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examination, the whole problem will be completely explained.

COMMANDER HARRIS: How long are you going to take now?

DR. WEISGERBER: I think I will be through by 11:30 if I can start at 10.

COMMANDER HARRIS: I don't see how we can cross examine in 1½ hours. It seems to me that that is taking quite a long time for this witness.

COMMISSIONER: I think the interrogation will carry on much quicker than it has up to ~~kn~~ now if, as I have already suggested, this afternoon, if the witness will answer directly to the questions without trying to justify their actions by a legal basis and to give them a character of legality.

DR. WEISGERBER: The way the questions will be put tomorrow enables one to believe that the answers will be much briefer because the questions pertaining to the general part required for the answering are rather large phrases. I will only ask questions pertaining to concrete questions tomorrow.

The Commission adjourned at 1700 hours.

The foregoing is a true and correct transcript of the testimony of DR. WERNER BEST taken on 5 July 1946.

Marjorie J Shumway
(Reporter (pp. 1-15

CERTIFIED TO:

A. Martin-Havard
Commissioner

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COMMISSIONER:

MR. ARMAND MARTIN HAVARD

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(The Commission convened at 1545 hours.)

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The testimony will be taken orally, however the witness may have some notes with him. But, however, he can't use the answers prepared beforehand. If he uses notes to help him, those notes can be seen by the Prosecution. What is his name?

BY THE WITNESS:

Dr. Werner Best.

BY THE COMMISSIONER:

Will you repeat the oath?

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withold and add nothing.

(The witness repeated the oath.)

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a.) Development structural work of the Gestapo, the possible consideration of that book published by the witness, called, "The German Police". Paragraph 6a. No. 1. Trial brief 13 March 1946

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Q Witness, will you give us a brief personal history?

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A Since I am an attorney and a professional servant since 1929, I was a judge in the Hessian judicial structure. Since 1933 I was an adminstrative official and since 1942 I have been a diplomat. In 1933 and 1934 I was Regierungstrat in the Hessian Ministry of the Interior and the Chief of the Police Department of this Ministry. From 1935-1936 I was a Prussian Chancellor Governor or Oberregierungsrat in the Gestapo Office in Berlin and from 1936 to 1940 I was a Ministerialrat and later Ministerialderigent in the Reichsministry of the Interior, jurisdiction of the Security Police. From 1940 to 1942 I was a Military Official. From 1942 to 1945 I was a Reich Potentiary in Denmark.

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A No. It is purely a private publication. This is shown in the preface and can be derived from the fact that my superior Himmler only heard of the book when I submitted one copy to him.

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Q You are not finished with your answer. Will you please limit yourself to the most necessary remarks?

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BY THE WITNESS:

A. In individual cases there was no question of arbitrary action but special orders and directives to cover these things have been promulgated.

COMMANDER HARRIS: The Prosecution, in Document 1852-PS, has pointed towards the following paragraph: "It is no longer a question of law but a question of fate whether the will of the leadership lays down the 'right' rule, i.e., rules feasible and necessary for police action -- the 'police' law which is suitable and are beneficial to the people. Actual misuse of the legislative power being a people's leadership and be it a harmful severity or weakness, will, because of the violations of the 'laws of life' be punished in history more surely by fate itself through misfortune, overthrow and ruin, than by a State Court of Justice".

BY DR. WEISGERBER:

Q. Is the interpretation correct that police arbitrary action is the consequence of authoritarian state leadership?

A. There is no question of police arbitratism because I have said several times that the will of the State leadership creates police law. I mus again give an example to illustrate the thought of the book. The sentence means the same as if I say that the parliament of the United States makes harmful or good laws is not a legal question but a political question and this passage of my book was meant to be a political warning to the State leadership to use their authority only for good and for use for decrees and unfortunately I was proven to be right and I think that in a worthwhile literature that fate would speak.

Q. Is it true that you participated in the so-called Decree of Assimilation and for what reason?

A. I myself was the motivating power for this measure for the following

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reasons: After, within the police, the plan of expert civil servants was stabilized and the largest part of the old police officials had remained in the service, there was a danger that the police might take a certain opposite view to that of the political movement. At least people of the party would have said that these police officials who before, were members of the Socialistic Democratic or other parties, were not permitted to put into execution, measures against Party members. In such a case, the best solution for the problem in the National Socialistic States was a uniform. That is wh I myself, asked them to have the civil servants wear SS uniforms.

COLONEL ORLOV: Mr. Commissioner. We are losing time for nothing. We don't have to prove here that everything in the National Socialistic State ha a legal basis. After the application of the "gas wagon" it is presumed that the basis was criminal.

DR. WEISGERBER: The prosecution states that the Gestapo members, to a great extent, were SS members.

COMMISSIONER: Is he asking a question of the witness?

DR. WEISGERBER: I must have an opportunity to ask a question to explain why a part of the Gestapo membership wore an SS uniform.

COMMISSIONER: He hasn't answered the objection raised by the Prosecutio You can carry on asking questions but I will ask the witness that he answers the questions without a long story, and without trying to find the legal side of the action that was carried out.

BY THE WITNESS:

A. In the S[S] there was a very strong resistance to this assimilation. One cannot say that the SS wanted this measure. At the beginning of the war out of 20,000 possible men, about 3,000 were assimilated so that I cannot say that this had taken place in preparation of the war.

BY DR. WEISGERBER:

Q. The question of the voluntary membership in the accused Organizatio plays an important part. You yourself for example, were the Chief of the Department of the Administration. I want you to tell us briefly your idea

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of whether membership in the Gestapo was voluntary or not?

A. The Gestapo was a Civil Service agency. Its employees were treated exactly as the employees of other agencies like a judge who might have been transferred to a penal court or to a real estate assessor or the way an administrative official would have to obey an order which took him either to a Landratamt or a police headquarters. The same way a detective had to obey an order which sent him to a Gestapo office or an administrative employee would have to obey an order transferring him to a Gestapo office.

Q. What were the consequences if he refuses to accept such a transfer to the Gestapo?

A. Disciplinary procedure for disobeying.

Q. Were there any more disadvantages for the individual concerned? For instance, supervision by the Sipo?

A. It was possible that such would have been the consequence if he would have made known any political motives.

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Q. In appointing the personnel of the Gestapo, were members of the SS or SA preferred ?

A. Positions with the Gestapo, on the basis of the Police Law, were reserved 90 % for candidates coming from the Schutzpolize. Only 10 % of the law stated they could come from foreign professions.

Q. Were the salaries a spacial inducement ?

A. No, not at all. Salaries were fixed by the general salary laws and jus as low as they were for other officials for corresponding rank.

Q. Was it a matter of course that employees of the Gestapo were used in Party offices ?

A. Officials were porhibited from accepting official functions in the Offi of the Party of the SS or in other political organizations so that there coul be no influence from this side on the civil servants in regard to their official activities.

Q. Can the functions which the employees of the Gestapo perform be categorized ?

A. Yes. First you can separate administration and executive similar to finance and customs. The executive part again was divided into political executive, in the narrow sense the counter-intelli ence police, border police and Reich Security Service. That is about it.

Q. For what reason do you put the administrative officials in a special category ?

A. The administrative officials did not have anything to do with the executive part. Their duties, for instance, included managing the offices dealing with personnel records, dealing with the budget, expenditures, procurement, accounting, as well as dealing with material rights. For instance, my office took care of the entire German passport law. the entire law pertaining to the policing of foreigners, border regulations on the basis of internati pacts and agreements and similar objects of law.

Q. Did the administrative officials also come under the police law ?

A. No. The law for police employees only concerned itself with the service relationship of all executive officials of the entire police, for insta ce, Schutzpolizei, Gendarmerie, criminal police and the Gestapo, where administrative officials were subject to the Reich civil servant law.

Q. At what point were the administrative officials in a position to learn of the measures and activities of the executive police officials ?

A. The administrative officials had practically no possibility to become aware of it, since neither by records or by official consultant were they instructed of executive measures. The order of secrecy were against these people learning from the executive police in private conversation.

Q. As a part of the executive, you mentioned the counter-intelligence police. What were the special duties of the counter-intelligence police ?

A. The criminalistic research in case of state treason.

Q. Which police offices dealt with state treason cases before 1933 ?

A. In the individual German provinces they were so-called Central Police offices who again, with the other police offices, had specially assigned officials.

Q. After 1933 how far has that situation been changed ?

A. Practically the same. The officials were taken over into the Gestapo and have conducted their work as under the designation of Section 3.

Q. What was your own position in relation to the counter-intelligence police ?

A. In 1935, I was assigned as a commission leader of Section 3 of the Gestapo in the Center Office of the Gestapo to straighten out certain difficulties which arose with the Wehrmacht. The department itself did not constitute much work for me because it merely evaluated and informed the authorities.

Q. What was the number of heads in the Counter-Intelligence Police ?

A. I should judge about 2000 to 3000 heads but I don't want to make a definite statement.

Q. What was the relationship between the Counter-Intelligence Police and the Military Counter-Intelligence ?

A. Both institutions were independent of each other on the same level. The task of the Counter-Intelligence Police was to deal with individual cases. It was the task of the Military Counter-Intelligence to ascertain th apparatus of the enemy. Both institutions had to keep each other abreast of the developments.



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Q. The persons who were suspected of state treason activities, were they thrown into concentration camps by way of protective custody without legal procedure ?

A. On the basis of my own knowledge I can testify that up to 1940 every ca: of state treason was transferred to the courts and the courts passed sentence:

Q. Since when was there a border police ?

A. Just as with the Counter- Intelligence Police, the original German provinces had police offices fulfilling where assigned officials took care of that particular assign ment and duty. There was a great difference in the organizational group and consequently their efficiency was not very great. That is why in 1937, w en the police was made into an organ of the Reich within the framework of the Gestapo, the so-called border police was organized in a coordinated manner and correspondingly training was introduce of border police.

COMMISSIONER: Witness, can you answer more briefly to the questions ? The Counsel wanted you to be brief and you go into too much detail and are getting off the point of the question.

BY DR. WEISGERBER:

Q. Will you briefly describe the duties of the Border Police ?

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A The task consisted of checking passes and passports, control of small frontier border traffic, cooperation with foreign police forces, by accepting deportation persons, etc., and search for persons and objects on the basis of the Search Register of the German Police.

Q Was membership in the Frontier Police or Border Police a voluntary one?

A Any official of the Gestapo Kripo or administrative police could be transferred to the Frontier Police as well as from any other Police.

Q How large was the Frontier Police during your tour of duty with the Gestapo?

A If my memory serves me right, at the beginning of the war about 3½ to 4,000 people.

Q During war time, did the duties to be performed by the Frontier Police change?

A As far as the Frontier Police remained on the front, nothing changed. I know about this personally up to the end of the war about the German Danish frontier.

Q Did the Frontier Police have anything to do with third degree interrogations?

A It was not the task of the Frontier Police to do any factual interrogations since it did not have any factual records. Their interrogation could only concern the identification of an individual. Of course, no third degree interrogations were ever applied here.

Q What was the procedure of transfer with the Austrian Frontier Policemen after the so-called Anschluss in 1938?

A The officials were taken over within grade and employed further at the frontier.

Q What procedure was used by the Frontier Police to fulfill duties of a Security Police kind?

A In checking passes at the frontier, the Search Register was always checked to find out if the owner of the passport was searched for by any German Agency. The Check Register contained the "holding orders of German reports", the wanted descriptions and photographs of German persecutors, and th

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wanted orders of the German Criminal Police and of the Gestapo. If anyone's name appeared in the book he was arrested and the authority concerned was notified.

COMMISSIONER: If you will wait a few minutes I will telephone Colonel Neave to see if the Commission will appear tomorrow. You will sit tomorrow morning. Will you give instructions for the witness to come back tomorrow morning at 10 o'clock?

BY DR. WEISGERBER:

The witness previously mentioned the Reich Security Service. Consequently I must concern myself briefly with this circle of persons. I could save myself these questions if the gentlemen of the Prosecution would let me know whether the Reichssicherheitsdient is considered part of the Gestap or not. I myself can only say the following: The Reichssicherheitsdient never has been part of the Gestapo and it must not be confused with the SD. But in my various camp visits I have found that the members of the Reichssicherheitsdient were treated as either members of the SD or of the Gestapo. If there is something unclear in respect to this point, I must take the opportunity to discuss this problem. If the gentlemen of the Prosecution can declare, however, that the Reichssicherheitsdient does not come under the Gestapo, I can save myself approximately 8 questions.

LT. HARRIS: I think it is difficult for us to take a general precept, but since Reichssicherheitsdient has been quoted by the witness during the interrogation of the Gestapo, I think personally we will probably have to eventually cross-examine the witness on this point unless, during the following direct examination, the whole problem will be completely explained.

How long are you going to take now?

DR. WEISGERBER: I think I will be through by 11:30 if I can start at 10.

LT. HARRIS: I don't see how we can cross examine in 1½ hours. It seems to me that that is taking quite a long time for this witness.

COMMISSIONER: I think the interrogation will carry on much quicker than it has up to now if, as I have already suggested this afternoon, if the witness will answer directly to the questions without trying to justify their

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actions by a legal basis and to give them a character of legality.

DR. WEISGERBER: The way the questions will be put tomorrow enables one to believe that the answers will be much briefer because the questions pertaining to the general part required for the answering are rather large phrases. I will only ask questions pertaining to concrete questions tomorrow

The Commission adjourned at 1700 hours.

The foregoing is a true and correct transcript of the testimony of DR. WERNER BEST taken on 5 July 1946.

MARJORIE SHUMWAY
Reporter

CERTIFIED TO:

A. MARTIN-HAVARD
Commissioner